

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 33804 of 1998

Between:

Patnala Chinna Rao, S/o Janaki, Hindu,
R/o Anaparthi, E.G.Dist.

... PETITIONER

AND

- 1 The Gram Panchayat, Rep by its Executive Officer.
Anaparthi, E.G.Dist.,
- 2 The Executive Engineer, Irrigation, Eastern Division,
Dowleiswaram, E.G.Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ, declaring the action of the respondents in proposing to demolish the petitioner's Wooden Buddi situated abutting Yerra Kalva Bridge in Anaparthi to Pedaparthi Road at Anaparthi Village, as illegal, arbitrary and unjust and consequently direct the respondents not to demolish the said Buddy.

Counsel for the Petitioner: MR.N.SIVA REDDY

Counsel for Respondent No.1: Mr. D. Srinivas (Standing Counsel)

Counsel for Respondent No.2: G.P. for Panchayat Raj & Rural Dev.

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus declaring the action of the respondents in proposing to demolish his wooden 'Buddi' situated abutting Yerra Kalva Bridge in Anaparthi to Pedaparthi road at Anaparthi village, as illegal and arbitrary and for a consequential direction to the respondents not to demolish the said 'buddi'.

2. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

3. Petitioner, claiming to be landless poor, states that he had raised a 'Wooden Buddi' on the canal bund in Anaparthi village and had been running a barbershop for eking out his livelihood. It is his case that some faction leaders, who are dictating terms in the village, are threatening to demolish his 'wooden buddi'. Petitioner further states though the Gram Panchayat has no objection for his occupation of the said 'buddi', the aforesaid faction leaders are forcing the authorities to evict him from his 'buddi'. While things stood thus, it is alleged that the second respondent along with his officials visited the village and threatened the petitioner to demolish his 'buddi', failing which; they would demolish the 'buddi' themselves. It is further alleged that though the petitioner made a representation to the second respondent on 21-11-1998 seeking regularization of the 'buddi', so far no action whatsoever has been taken on the same and the respondents are now bent upon demolishing the structure raised by the petitioner. Hence, the present writ petition.

4. In ***P.Lakshmana Rao Vs. Executive Officer***, a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. The principles were reiterated in ***M.Madhavi Latha***

Vs. Rajendranagar Municipality. The Principles laid down by the Division Bench are as follows:

1. *Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.*

2. *If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.*
3. *In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.*
4. *If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.*
5. *In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.*
6. *If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.*

Learned Standing Counsel appearing for the respondents, does not dispute the legal position.

The writ petition is disposed of in terms of the aforementioned judgment and till the claim of the petitioner is decided, *status quo* obtaining as on today shall be maintained. No costs.

N.V. RAMANA, J

April 7, 2005

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copy to. –

- 1 *The Executive Officer representing Gram Panchayat, Anaparthi, E.G.Dist.,*
- 2 *The Executive Engineer, Irrigation, Eastern Division, Dowleiswaram, E.G.Dist.*

Two C.C. s to the G.P. for Panchayat Raj & Rural Development, High Court
of A.P., Hyderabad (OUT).

Two C.D. Copies.